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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | |
|---|--------------|----------------------|--|------------------|----------|--------------|---------------|--|
| 09/761,341 | 01/16/2001 | Serguei Glazko | 000337 | 5972 | | | | |
| 23696 | 7590 | 08/09/2005 | <table border="1"> <tr> <td colspan="2">EXAMINER</td> </tr> <tr> <td colspan="2">TANG, KAREN C</td> </tr> </table> | | EXAMINER | | TANG, KAREN C | |
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| TANG, KAREN C | | | | | | | | |
| Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714 | | | <table border="1"> <tr> <td>ART UNIT</td> <td>PAPER NUMBER</td> </tr> <tr> <td>2151</td> <td></td> </tr> </table> | | ART UNIT | PAPER NUMBER | 2151 | |
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| 2151 | | | | | | | | |
| DATE MAILED: 08/09/2005 | | | | | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/761,341

Applicant(s)

GLAZKO ET AL.

Examiner

Karen C. Tang

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-20, 22-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-9, 11-20, 22-30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/12/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

I. Claim 1-6, 8, 9, 11-17, 19, 20, 22-27, 29, 30, and 32 are rejected under 35 U.S.C.

102(e) as being anticipated by art of record, Jou et al., hereinafter Jou (US 648472).

1. Referring to Claim 1 and 23, Jou states that the system receives data transmitted in a plurality of frames refer to Col 6, Line 36 – 45, Jou also states the system can classify each of the frame refer to Col 3, Line 7 – Line 14. Jou specifies the system analyzing the classification of number of successive frames of the received data and providing a metric with respect thereto refer to Col 3, Line 7 - 25. The system can determine if a frame is a discontinuously transmitted frame, thereby inhibiting a mobile receiver from requesting retransmission of the frames or a change in transmission power level. (A “whereby” which is equivalent as “thereby” clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim. Whereby clause that relates back to and clarifies what is required by the claim and gives meaning and purpose to the claim rather than merely stating inherent results is a limitation that must be given patentable weight. See *Texas Instrument Inc. v. International Trade*

Art Unit: 2151

Commission, 26 USPQ2d 1018 (Fed. Cir. 1993); Griffin v. Bertina, 62 USPQ2d 1431 (Fed. Cir. 2002); Amazon.com Inc. v. Barnesandnoble.com Inc., 57 USPQ2d 1747 (Fed. Cir. 2001))

2. Referring to Claim 2, 13, and 24, Jou states that the system consists error-checking ability for the frames refer to Col 4, Line 18 – 29.

3. Referring to Claim 3, 14, and 25, Jou states that the error checking includes performing a cyclic redundancy check refer to Col 4, Line 18 – 29.

4. Referring to Claim 4, 15, and 26, Jou states that the system classifies the frames as good frames, erasure frames or discontinuous frames refer to Col 3, Line 7 – 14.

5. Referring to Claim 5 and 16, Jou states the system includes a filter refer to Col 5, Line 13 – 18.

6. Referring to Claim 6, 17, and 27, Jou states the system assigns a numerical value to each of the frames based on the classification thereof Col 9, Line 25 - 60.

7. Referring to Claim 8, 19, and 29, Jou states the system set a threshold for the output of the filter refer to Col 3, Line 23 – 30.

Art Unit: 2151

8. Referring to Claim 9, 20, and 30, Jou states the system outputs an indication of a detection of a discontinuous transmission frame when the filter output exceeds the threshold refer to Col 3, Line 8 – 30.

9. Referring to Claim 10, 21, and 31, Jou states the system reclassifying the frames refer to Col 3, Line 8 - 30.

10. Referring to Claim 11, 22, and 32, Jou states the system reclassify frame to discontinuous if the frame was classified as erasure and the output of the filter exceeds the thresholds Col 3, Line 8 - 30.

11. Referring to Claim 12, Jou specifies a communication consists a transmitter which adapts to transmit frames of data, at least some of the frames being discontinuous. The system consists a receiver which adapted to received and classify the transmitted frames. The system also consists a processor and a software to analyze the classification of a number of successive frames of the receiving data and providing a metric with respect thereto and for determining, in response to the metric, if a frame is a discontinuously transmitted frames. thereby inhibiting a mobile receiver from requesting retransmission of the frames or a change in transmission power level. (A “whereby” which is equivalent as “thereby” clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim. Whereby clause that relates back to and clarifies what is required by the claim and gives meaning and purpose to the claim rather than merely stating inherent results is a limitation that must be given patentable

Art Unit: 2151

weight. See *Texas Instrument Inc. v. International Trade Commission*, 26 USPQ2d 1018 (Fed.

Cir. 1993); *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002); *Amazon.com Inc. v.*

Barnesandnoble.com Inc., 57 USPQ2d 1747 (Fed. Cir. 2001))

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

II. Claim 7, 18, and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Jou (US 648472) in view of Chen et al, hereinafter Chen (US 6335990) .

1. Referring to claim 7, 18 and 28, Jou specified that there is a filter associate with the system.

Jou does not expressly disclose what type of filter or the filter equation being used in the system.

Chen states that the filter is associate with the system and also the filter is in the

form of $Y_n = Y_{n-1} + X_n$ refer to Figure 9.

At the time of the invention, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teaching of Jou with the teaching of Chen. One of ordinary skill in the art would have been motivated to do this because Jou discloses there is a filter associate with the system. Furthermore, it would be beneficial to use Chen's idea to implement the filter with IIR filter so it can be easily filter

Art Unit: 2151

the data in the vertical, horizontal, and temporal dimension in a single step, and it also can preserve the sequence of the frames.

Response to Arguments

III. Applicant's arguments filed 6/16/05 have been fully considered but they are not persuasive.

1. In the remark, the applicant argued that (1) Independent claims 1, 12, 23 are amended to include that reclassifying improperly classified erasure frames to be DTX frames inhibits a mobile receiver from requesting retransmission of the frames or a change in transmit power level. See, e.g., Applicant's Published Application 0011 and 0060. The transmission of DTX frames impedes operation at optimal power level. See Applicant's published Application 0006.
2. Examiner respectfully traverse the argument: (1) Applicant does not point out the what limitation the prior art does not teach, rather, just merely compares the to the specification. Examiner realize there must be fundamental difference between the prior art and the application, however, examiner is responsible not to read the spec into the claim language, and the claiming language is what the examiner should be considered and emphasized.

Conclusion

A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action.

Art Unit: 2151

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT
Karen Tang
8/4/05


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER